

### REMARKS

Applicant submits new claims that recite additional limitations that are neither disclosed nor suggested by *Burns*. In particular, the new claims recite systems and methods for distribution of video assets throughout a video distribution system on the basis of characteristics in addition to expected demand.

The Examiner appears to agree that *Burns* fails to expressly disclose a content manager as claimed, but that such a content manager is inherent in a disclosure of a push-based embodiment of *Burns*.

Applicant submits that to the extent a content manager may be inherent in a push-based embodiment of *Burns*, such a content manager would not *necessarily* be configured to cause selected viewable data objects to be provided to selected servers at least in part of the factors recited in new claim 128.

The Examiner has indicated that pending claim 73 was not restricted to push-based systems because it failed to recite where the content manager was located.

Whether or not a distribution system is pull-based or push-based has little to do with where a content manager might be located. The distinction has more to do with what a content manager does. Therefore, the absence of a claimed location is of no significance in determining whether the claim covers both types of distribution systems.

Applicant draws particular attention to the recitation of a "content manager...configured to cause" the distribution of video assets on the basis of certain factors. This language distinguishes over a pull-based system.

In a pull-based system, a processor associated with a repository of video assets responds to a request from a local servers by transmitting the requested video asset to that local server. Such a processor could be said to "cause" a video asset to be transmitted to the local server. But

Applicant : Yvette Marie Gordon, et al.  
Serial No. : 09/293,011  
Filed : April 16, 1999  
Page : 12 of 12

Attorney's Docket No.: 07442-009001

one could hardly say that that processor "caused" transmission of the video asset on the basis of anything but the request from the local server.

**Summary**

Now pending in this application are claims 128-173, of which claims 128, 151, and 173 are independent. Enclosed is a check for a request for continued examination. No additional fees are believed to be due in connection with the filing of this response. However, to the extent fees are due, or if a refund is forthcoming, please adjust our deposit account 06-1050, referencing attorney docket "07442-009001."

Respectfully submitted,

Date: Oct. 3, 2000



Faustino A. Lichauco  
Reg. No. 41,942

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906